

§ 146-49. Errors in surveys of plots corrected.

Whenever there may be an error by the surveyor in plotting or making out the certificate for the Secretary's office, or whenever the Secretary shall make a mistake in making out the courses agreeable to such returns, or misname the claimant, or make other mistake, so that such claimant shall be injured thereby, the claimant may prefer a petition to the superior court of the county in which the land lies, setting forth the injury which he might sustain in consequence of such error or mistake, with all the matters and things relative thereto. The court may hear testimony respecting the truth of the allegations set forth in the petition; and if it shall appear by the testimony, from the return of the surveyor or the error of the Secretary, that the patentee is liable to be injured thereby, the court shall direct the clerk to certify the facts to the Secretary of State, who shall file the same in his office, and correct the error in the patent, and likewise in the records of his office. The costs of such suit shall be paid by the petitioner, except when any person may have made himself a party to prevent the prayer of the petitioner being granted, in which case the costs shall be paid as the court may decree. The benefits granted by this section to the patentees of land shall be extended in all cases to persons claiming by, from, or under their grants, by descent, devise, or purchase. When any error is ordered to be rectified, and the same has been carried through from the grant into mesne conveyances, the court shall direct a copy of the order to be recorded in the register's book of the county: Provided no such petition shall be brought but within three years after the date of the patent; and if brought after that time, the court shall dismiss the same, and all proceedings had thereon shall be null and of no effect: Provided further, nothing herein shall affect the rights or interest of any person claiming under a patent issued between the period of the date of the grant alleged to be erroneous and the time of filing the petition, unless such person shall have had due notice of the filing of the petition, by service of a copy thereof, and an opportunity of defending his rights before the court according to the course of the common law. (1790, c. 326, P.R.; 1798, c. 504, P.R.; 1804, c. 655, P.R.; 1814, c. 876, P.R.; R.C., c. 42, s. 28; Code, s. 2785; Rev., s. 1738; C.S., s. 7587; G.S., s. 146-57; 1959, c. 683, s. 1.)